

civil monetary penalty authority under sanctions programs contained in 31 CFR chapter V, FAC considered the fact that a transfer violation arose in a fully-automated transaction as a strongly mitigating circumstance in determining liability.

In the past few years, financial institutions that handle significant volumes of international transfers have developed and put into use "interdiction software" that scans incoming automated transfer instructions for words (names of banks and transaction parties, geographical locations, and transaction descriptions) likely to indicate that a transaction is subject to the prohibitions in 31 CFR chapter V. Commercial interdiction software is now widely available and in use, and information needed to update the database used in screening transactions as FAC amends its lists of blocked persons and specially designated nationals is immediately available for computer downloading from numerous governmental and private sources. The use of such software by financial institutions has substantially enhanced the effectiveness of FAC sanctions programs.

It has been determined that it is no longer appropriate to treat fully-automated financial transactions that violate economic sanctions prohibitions as being beyond a financial institution's knowledge or intent. Beginning on September 1, 1995, FAC will no longer treat the fully-automated processing of violative transactions as a full defense in civil penalty proceedings.

Dated: May 31, 1995.

**R. Richard Newcomb,**

*Director, Office of Foreign Assets Control.*

Approved: June 5, 1995.

**John P. Simpson,**

*Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).*

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## Office of Foreign Assets Control

### 31 CFR Part 505

#### Regulations Prohibiting Transactions Involving the Shipment of Certain Merchandise Between Foreign Countries; Partial Lifting of Restrictions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule; amendments.

**SUMMARY:** The Treasury Department is lifting prospectively prohibitions set forth in the Transaction Control Regulations as they relate to offshore trade in strategic goods of the types controlled for exportation from the United States for national security reasons under the Export Administration Act of 1979. Offshore transactions in items of the types controlled for exportation under the Arms Export Control Act of 1976 or the Atomic Energy Act of 1954 remain subject to the prohibitions.

**EFFECTIVE DATE:** June 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

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##### Background

On April 4, 1994, the Department of Commerce amended the Export Administration Regulations, 31 CFR parts 768-799 (1994) (the "EAR"), to reflect the termination of the Cold War regime known as The Coordinating

Committee for Multilateral Export Controls ("COCOM") on March 31, 1994. The exportation of many dual-use items to civil end-users in the former Soviet Bloc and China was authorized by a new General License GLX. In light of these developments, the Office of Foreign Assets Control is amending the Transaction Control Regulations, 31 CFR part 505 (the "TCR"), that prohibit "persons within the United States" (U.S. firms and residents and foreign firms owned or controlled by them) from involvement in offshore strategic exports from third countries to certain Communist and formerly Communist countries listed on a schedule in § 505.10.

Section 505.10 is amended by removing prohibitions pertaining to transactions in items that, were they of U.S. origin, would be restricted for exportation from the United States for national security reasons, as listed on the Commodity Control List in supplement no. 1 to part 799 of the EAR. Persons within the United States remain subject to the prohibitions in the TCR as they relate to offshore trade in items of the types controlled for exportation from the United States under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or the Atomic Energy Act of 1954, 42 U.S.C. 2011-2297g-4. Any person within the United States who sells or purchases, or arranges the purchase, sale or financing of these items from a third country to a designated country must be covered by a general or specific license from the Office of Foreign Assets Control authorizing the transaction. This final rule does not affect enforcement actions with respect to prior violations of this part.

Because the TCR involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply.

##### List of Subjects in 31 CFR Part 505

Administrative practice and procedure, Banks, banking, COCOM, Communist countries, Exports, Finance, Foreign trade, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 31 CFR part 505 is amended as set forth below:

# **PART 505—REGULATIONS PROHIBITING TRANSACTIONS INVOLVING THE SHIPMENT OF CERTAIN MERCHANDISE BETWEEN FOREIGN COUNTRIES**

1. The authority citation for part 505 is revised to read as follows:

**Authority:** 50 U.S.C. App. 1–44; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748.

2. Paragraph (b), preceding the “Schedule,” of § 505.10 is revised to read as follows:

## **§ 505.10 Prohibitions.**

\* \* \* \* \*

(b) The merchandise is of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or the Atomic Energy Act of 1954, 42 U.S.C. 2011–2297g–4, or successor acts restricting the exportation of strategic goods.

\* \* \* \* \*

3. Paragraphs (a) introductory text and (a)(1) of § 505.31 are revised to read as follows:

## **§ 505.31 General license for offshore transactions from certain countries.**

(a) Except as provided in paragraph (b) of this section, all transactions prohibited by § 505.10 are hereby authorized provided:

(1) Shipment is to a country listed in the schedule to § 505.10, other than North Korea; and

\* \* \* \* \*

Dated: June 14, 1995.

**R. Richard Newcomb,**

*Director, Office of Foreign Assets Control.*

Approved: June 16, 1995.

**John P. Simpson,**

*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

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## **31 CFR Part 585**

# **Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations; Bosnian Serb Sanctions**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule; amendments.

**SUMMARY:** This rule amends the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations to: Implement Executive Order 12934 of October 25, 1994, imposing sanctions on the Bosnian Serb forces and authorities

and the areas of the Republic of Bosnia and Herzegovina that they control, in view of United Nations Security Council Resolution No. 942; provide an agency interpretation of the new prohibitions as preventing certain financial services to the areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces and to entities worldwide owned or controlled from such areas; make additional conforming amendments to reflect the implementation of Executive Order 12846 of April 25, 1993; and make certain clarifying and technical amendments.

**EFFECTIVE DATE:** June 30, 1995.

## **FOR FURTHER INFORMATION CONTACT:**

Steven I. Pinter, Chief of Licensing, tel.: 202/622–2480, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

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## **Background**

On October 25, 1994, the President issued Executive Order 12934, 59 FR 54117 (October 27, 1994), expanding the scope of the national emergency declared in Executive Order 12808 to extend certain sanctions to the Bosnian Serb forces and authorities and the areas of the Republic of Bosnia and Herzegovina that they control, taking into account the provisions of United Nations Security Council Resolution No. 942 of September 23, 1994. Effective October 25, 1994, the Executive order blocks all property and interests in property of the Bosnian Serb military and paramilitary forces and the authorities in those areas of the

Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; entities organized or located in those areas; entities owned or controlled directly or indirectly by any person in, or resident in, those areas; and any person acting for or on behalf of any of the above. A partial listing of such persons was published on April 18, 1995. 60 FR 19448. The part heading is revised to read: “The Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the “Regulations”),” and § 585.201 of the Regulations is amended to implement this provision. E.O. 12934, section 1.

Section 585.217 of the Regulations is amended to implement the Executive order’s prohibition in section 2(b) against the entry of U.S.–flag vessels into the riverine ports of those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces. Section 585.218 of the Regulations, which already prohibits exportation to, importation from, and transshipment through those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces, is amended to reflect the Executive order’s prohibition in section 2(a) against the provision or exportation of services to those areas or to any person for the purpose of any business carried on in those areas, either from the United States or by a U.S. person.

The prohibitions of Executive Order 12934 apply notwithstanding any prior contracts, international agreements, licenses or authorizations, but may be modified by regulation, order or license issued pursuant to that Executive order.

In addition to implementing the provisions of Executive Order 12934, this final rule amends several provisions of the Regulations pertaining to property interests blocked under § 585.201 by substituting a simple reference to “property or interests in property blocked pursuant to § 585.201” for a lengthy list of all persons whose property interests are blocked pursuant to Executive Orders 12808, 12810, 12846, or 12934.

Section 585.420 is added interpreting new §§ 585.201(c) and 585.218(b) of the Regulations to prohibit the transfer of funds by U.S. financial institutions to or for the benefit of persons whose property and interests in property are blocked pursuant to § 585.201(c), on the basis that such transfers are blocked by operation of law upon their initiation, and that such transfers involve an illegal exportation of financial services from